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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,414	07/10/2007	Neil William Graham	15584.13	3661
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Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111				
EXAMINER				
HICKS, VICTORIA J				
ART UNIT		PAPER NUMBER		
3772				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/575,414

Applicant(s)

GRAHAM, NEIL WILLIAM

Examiner

VICTORIA HICKS

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This action is in response to the application filed on April 10, 2006.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the section contains the term "comprises." In order to avoid the use of legal phraseology in the abstract, this term should be removed from this section of the application. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-9, 11 and 13-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Mothersbaugh et al. (US publication 2004/0002670).

In regards to claim 1, Mothersbaugh et al. teaches in the abstract a bandage section having a perimeter sufficient to occlude a wound. In [0032] Mothersbaugh et al. teaches a valve section (60) that allows the escape of fluid. In Figures 3-5 Mothersbaugh et al. teaches that the valve section (60) lies substantially on the same plane as the bandage section (12).

In regards to claim 2, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0026] Mothersbaugh et al. teaches that the bandage section includes a transparent area (30).

In regards to claim 3, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0023] Mothersbaugh et al. teaches that the bandage section (10) is provided with an adhesive (16) formed on the bottom surface of

the base (14). In Figure 1 Mothersbaugh et al. teaches that the base (14), and thus the adhesive (16), is on the outer edge of the bandage section (10).

In regards to claim 4, Mothersbaugh et al. substantially teaches the apparatus of claims 1 and 3 (see rejection of claims 1 and 3 above). In [0023] Mothersbaugh et al. teaches that the adhesive (16) is covered with a removable protective outer film (18) prior to use.

In regards to claim 5, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0032] Mothersbaugh et al. teaches that the valve section (60) comprises a one-way valve.

In regards to claim 6, Mothersbaugh et al. substantially teaches the apparatus of claims 1 and 5 (see rejection of claims 1 and 5 above). In Figure 5 Mothersbaugh et al. teaches that the one-way valve (60) is a flutter valve.

In regards to claim 7, Mothersbaugh et al. substantially teaches the apparatus of claims 1, 5 and 6 (see rejection of claims 1, 5 and 6 above). In Figure 5 Mothersbaugh et al. teaches that the flutter valve (60) includes one leaflet (61).

In regards to claim 8, Mothersbaugh et al. substantially teaches the apparatus of claims 1, 5 and 6 (see rejection of claims 1, 5 and 6 above). In Figure 5 Mothersbaugh et al. teaches that the flutter valve (60) includes two leaflets (61, 62).

In regards to claim 9, Mothersbaugh et al. substantially teaches the apparatus of claims 1 and 5 (see rejection of claims 1 and 5 above). In [0027] Mothersbaugh et al. teaches that the bandage section (10) is made of a substantially rigid material. In Figures 3-5 Mothersbaugh et al. teaches that the bandage section (10), and thus the substantially rigid material, houses the one-way valve (60).

In regards to claim 11, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0023] Mothersbaugh et al. teaches that the bandage section (10) is provided with an extending tag section (23), wherein the extending tag section (23) facilitates easy gripping of the dressing. This is further taught by Mothersbaugh et al. in Figure 1.

In regards to claim 13, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0023] Mothersbaugh et al. teaches that the dressing is made of silicone rubber, which is a waterproof material.

In regards to claim 14, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). In [0023] Mothersbaugh et al. teaches that the dressing is made of silicone rubber, which is a non-allergenic material.

In regards to claim 15, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. discloses the claimed invention except for that the dressing includes a plastic material. It would have been obvious to one having ordinary skill in the art at the time of invention to make the dressing out of a plastic material, since it has been held to me within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In regards to claim 16, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. discloses the claimed invention except for that the dressing includes a latex material. It would have been obvious to one having ordinary skill in the art at the time of invention to make the dressing out of a latex material, since it has been held to me within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In regards to claim 17, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. teaches in [0028] that the valve section (60) is provided with an irrigation flushing system.

In regards to claim 18, Mothersbaugh et al. substantially teaches the apparatus of claims 1 and 17 (see rejection of claims 1 and 17 above). Mothersbaugh et al. teaches in [0032] that the irrigation flushing system includes an aperture (52) in the casing of the valve section (60) through which fluid can be inserted. In Figure 4 Mothersbaugh et al. teaches that the aperture (52) is in the casing of the valve section (60).

In regards to claim 19, Mothersbaugh et al. substantially teaches the apparatus of claims 1 and 17 (see rejection of claims 1 and 17 above). Mothersbaugh et al. teaches in [0032] that the irrigation flushing system includes a tube (56) and a valve (60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mothersbaugh et al. (US publication 2004/0002670) in view of Kay (US patent 5,713,842).

In regards to claim 10, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. does not teach that the bandage section is substantially elliptical or circular in shape. However, Kay teaches in Figure 1 an analogous device in which the bandage section (1) is substantially elliptical. It would have been obvious for one having ordinary skill in the art at the time of invention to modify the dressing taught by Mothersbaugh et al. with the shape taught by Kay because this shape is known to eliminate redundant surface area and increase the effective adhesion to anatomic surfaces, as Kay teaches in the abstract.

3. Claim 12, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mothersbaugh et al. (US publication 2004/0002670) in view of Henley et al. (US patent 7,276,051).

In regards to claim 12, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. does not teach that the valve section is provided with a collection bag. However, Henley et al. teaches in column 2, lines 50-52 an analogous device in which the valve section is provided with (coupled to) a drainage receptacle. In column 5, line 40 Henley et al. teaches that the

drainage receptacle is a collection bag (92). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the dressing taught by Mothersbaugh et al. with the collection bag taught by Henley et al. because this element is known to collect fluid flowing from the dressing taught by Mothersbaugh et al.

In regards to claim 21, Mothersbaugh et al. substantially teaches the apparatus of claim 1 (see rejection of claim 1 above). Mothersbaugh et al. does not teach that the bandage section contains one or more membrane layers. However, Henley et al. teaches in column 13, lines 25-27 an analogous device in which the bandage section (320) contains a membrane layer (332). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the dressing taught by Mothersbaugh et al. with the membrane layer taught by Henley et al. because this element is known to regulate the flow of fluids in the dressing taught by Mothersbaugh et al.

In regards to claim 22, Mothersbaugh et al. and Henley et al. substantially teach the apparatus of claims 1 and 21 (see rejection of claims 1 and 21 above). Mothersbaugh et al. does not teach that the bandage section has two or more membrane layers. However, Henley et al. teaches in column 13, lines 29-30 an analogous device in which the bandage section (320) includes two membrane layers (332) which could function such that tension is applied to a wound when air or fluid is provided between the membrane layers. It would have been obvious for one having

ordinary skill in the art at the time of invention to modify the dressing taught by Mothersbaugh et al. with the membrane layer taught by Henley et al. because this element is known to regulate the flow of fluids in the dressing taught by Mothersbaugh et al.

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mothersbaugh et al. (US publication 2004/0002670) in view of Feibus (US patent 5,358,492).

In regards to claim 20, Mothersbaugh et al. substantially teaches the apparatus of claims 1, 17 and 19 (see rejection of claims 1, 17 and 19 above). Mothersbaugh et al. does not teach that the tube is provided with perforations. However, Feibus teaches in column 5, lines 58-60 an analogous device in which the tube (9) is provided with perforations (12). This is further taught by Feibus in Figure 10. It would have been obvious for one having ordinary skill in the art at the time of invention to modify the dressing taught by Mothersbaugh et al. with the tube perforations taught by Feibus because this element is known to aid in the collection of wound drainage, as Feibus teaches in column 5, lines 58-60.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./
Examiner, Art Unit 3772
3/3/09

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772